DOCUMENT RESUME

ED 166 995 HE 009 829

AUTHOR	Walther, Peter D.
TITLE	The National Labor Relations Board in Higher Education. Special Report No. 33.
INSTITUTION	Academic Collective Bargaining Information Service, Washington, D.C.
PUB DATE	Mar 78
NOTE	15p.
EDRS PRICE	MF-$0.83 HC-$1.67 Plus Postage.
DESCRIPTORS	Administrative Policy; *Collective Bargaining; *College Faculty; *Court Cases; Department Directors (School); *Employer Employee Relationship; *Higher Education; Part Time Teachers; Policy Formation; Researchers; *Unions
IDENTIFIERS	Department Chairpersons; *National Labor Relations Board

ABSTRACT

This special report discusses some of the difficult problems that have faced and that continue to confront the National Labor Relations Board in determining the proper scope and composition of collegiate bargaining units, including the treatment of department chairpersons, principal investigators, part-time faculty, visiting lecturers, and terminal contract employees. Scope implies the group or groups of employees that properly belong together in one unit, while composition refers to which employees or classifications fall within the groups included. Court cases concerning the scope and composition of bargaining units at several colleges are cited. Among the cases are the following: a request by Cornell University for a unit for all non-professional employees anywhere in New York State; a petition for a unit limited to the clerical and technical employees of the Harvard Medical, Dental, and Public Health Schools; Adelphi University's question of whether 14 part-time lecturers who carried a teaching load equal to that of full-time faculty instructors should be included in a unit otherwise composed of full-time teaching personnel; and Goddard College's question of whether part-time faculty members are entitled to their own separate unit. An important consideration concerning the scope of bargaining in higher education is whether it is a viable method of determining the quality of education. It is hoped that collective bargaining raises the standards of the employees and solves problems in the employee-employer relationships but does not impede the ability of an institution to fulfill its educational functions. (SW)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Peter D Walther

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC) AND USERS OF THE ERIC SYSTEM."

Academic Collective Bargaining Information Service
818 R Street, N.W. / Washington, D. C. 20009 / 202/387-3760

ED166995

Edward P. Kelley, Jr., Esq.
Director

James Gemmell
Associate Director

Frank C. Gerry, Ph. D.
Assistant Director

George Ward Angell
Consultant

SPECIAL REPORT #33

March 1978

THE NATIONAL LABOR RELATIONS BOARD IN HIGHER EDUCATION

by
Peter D. Walther, Former Member
National Labor Relations Board

The National Labor Relations Act has very little to say about the process of collective bargaining and offers virtually no comment on the process vis a vis post secondary education. The task of adapting the Act to higher education has been left to the National Labor Relations Board. In this Special Report, retired Board Member Peter D. Walther discusses some of the difficult problems that faced and continue to confront the Board in determining the proper scope and composition of collegiate bargaining units, including the treatment of department chairpersons, principal investigators, part-time faculty, visiting lecturers, and terminal contract employees.

This report prepared exclusively for ACBIS is the first published statement dealing with higher education by a present or former Board Member since Ralph Kennedy's comment of four years ago on "The Educators' Role in Educating the NLRB: Requirement of a Complete Record." The issues and cases highlighted by Walther should provide the reader with the best available perspective on Board thinking relative to post secondary education since the NLRB assumed jurisdiction in 1970.

Edward P. Kelley, Jr.
Director

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

Sponsored by the Association of American Colleges, the American Association of State Colleges and Universities, the National Association of State Universities and Land Grant Colleges, and the American Association of Community and Junior Colleges. Funded by the Carnegie Corporation of New York. Cooperative Educational Service Program funded by The Ford Foundation.

NTEA P24

THE NLRB IN HIGHER EDUCATION

Peter D. Walther

The National Labor Relations Act has very little to say about the mechanics of the bargaining process. All that it requires is that the parties meet and confer with respect to wages, hours, and working conditions in good faith and with a sincere desire to reach an agreement if possible.[1] Specific techniques of bargaining normally become relevant only to the extent that they evidence an overall good or bad faith attitude toward negotiations.

In the primary area where the Act does touch upon the substance of collective bargaining, namely, the scope of bargaining topics -- the National Labor Relations Board has not yet spoken with respect to the peculiarities of campus negotiations. Although parties subject to NLRB jurisdiction need not agree to a specific proposal, they are obligated to bargain over topics relating to "wages, hours, and other terms and conditions of employment."[2] Given the "collegial" decision-making process, and the relatively active and often important role sometimes played by faculty members in collegial governance, it would appear that the range of "borderline" topics arguably falling within the realm of wages, hours, and working conditions could be very large. To my knowledge, however, this problem has yet to be specifically addressed by the Board.

While neither the Federal Labor Law, nor the NLRB itself, by either experience or inclination are necessarily suited for involvement in the field of higher education, they are there to stay. The Labor Act was patterned to be applicable and effective primarily in manufacturing and service industries. It has only worked with very limited effect in construction, and even with the special statutory provisions, there are still serious problems in the health care field as a result of the Board's application of industrial patterns and decisions hereto.

This weakness on the part of the Board has been quite evident in its unit determination in college and university cases. Yet the single most significant contribution that the Board can make in furthering stable collective bargaining lies in the initial establishment and subsequent monitoring of meaningful collective-bargaining units. Bargaining relationships are rarely static and the procedures for amending certifications and clarifying units are always available in appropriate circumstances.[3]

By way of background, it has now been 7 years since the Board first assumed jurisdiction over private, nonprofit colleges and universities.[4] During the ensuing years, the Board has struggled to evolve a series of principles to be applied in establishing appropriate bargaining units on campus.[5] For the most part, these principles have been developed during the course of representation proceedings involving large multicampus, multidepartmental universities such as Cornell and New York University. The question

naturally arises, however, as to the practical applicability of even these principles to the special problems of smaller colleges.

When dealing with fundamental questions such as this in establishing bargaining units, one tends to refer to the time-honored pronouncement of the Board in Kalamazoo Paper Box Corporation:[6]

> In performing this function, the Board must maintain the two-fold objective of insuring to employees their rights to self-organization and freedom of choice in collective bargaining and of fostering industrial peace and stability through collective bargaining. In determining the appropriate unit, the Board delineates the grouping of employees within which freedom of choice may be given collective expression. At the same time it creates the context within which the process of collective bargaining must function. Because the scope of the unit is basic to and permeates the whole of the collective-bargaining relationship, each unit determination, in order to further effective expression of the statutory purposes, must have a direct relevancy to the circumstance within which collective bargaining is to take place. (citation omitted) For, if the unit determination fails to relate to the factual situation with which the parties must deal, efficient and stable collective bargaining is undermined rather than fostered.

The Board has never made a statement of more import or practical common sense in its history. The collective bargaining procedures can be difficult enough, but when forced to operate in an unstable or illogical unit the burden often can be impossible for the parties to carry. With these guidelines in mind, it is appropriate to turn now to an analysis of the Board's college and university decisions with respect, first, to the scope of the unit, and secondly, unit composition. Scope implies the group or groups of employees that properly belong together in one unit, while composition refers to which employees or classifications fall within the groups included.

SCOPE OF THE UNIT

In the first Fairleigh Dickinson University[7] case, the Board was squarely faced with a scope of the unit issue. The

University operated three geographically separated campuses. The American Federation of Teachers petitioned for a unit limited to the faculty at only one of the campuses while the American Association of University Professors sought a faculty unit encompassing all three. The Board noting factors such as one overall personnel policy as to wages, fringe benefits, hours, and tenure, and that there was only one faculty senate for all three, found the "community of interest" dictated an overall unit.

In a case involving non-faculty employees, Cornell University,[8] the Board refused petitioner's request for a unit of dining hall employees in ten of the eighteen dining facilities at the Ithaca campus. All ten facilities requested were under the supervision of the University Director of Dining Services; while the other eight were snack bars or coffeehouses supervised by the department in which they were located. The Board denied Cornell's request that the unit be all non-professional employees anywhere in New York State, but directed an election in a unit of all eighteen dining facility employees in the Ithaca area. While this decision seems to make sense and would result in a stable bargaining unit including all employees in the geographical area whose wages and benefits are related, it is questionable what is the controlling law today.

Last May, with Members Penello and Walther dissenting, the Board issued the Harvard College decision.[9] In the Harvard case, the petitioning union wanted a unit limited to the clerical and technical employees of the Harvard Medical, Dental, and Public Health Schools. The petition excluded all other clerical and technical employees. The Employer, Harvard College, contended that only a university-wide unit of all clerical and technical employees was appropriate. The Regional Director issued an intelligent decision applying the normal community of interest factors and dismissed the petition. The Board majority reversed and found the petitioned for unit appropriate, apparently because the medical schools were located three miles from the main campus. Then in a turnabout, the Board included such employees located up to twenty-two miles away in branch medical facilities. Failing to grasp the logic of the majority decision, Members Penello and Walther stated in dissent:

> In sum, we find the majority's opinion to be both distressing and bewildering. Distressing because it represents a dramatic and highly undesirable departure from Board precedent regarding appropriate bargaining units for nonprofessional employees on campus. The proverbial crack in the dam has now appeared and we can look forward to the inevitable flood of petitions seeking to represent

> employees on an individual campus, department or school basis -- all of which will constitute an unwarranted splintering of employees and only further exacerbate the already unstable state of labor relations on our Nation's campuses.
>
> In addition to being distressed, we are also bewildered because virtually all of the evidence which the majority recites in their decision points toward an inordinately high degree of centralization at Harvard. Not only personnel policies, but accounting, auditing, financial management, maintenance services, and health services, to name but a few, are also formulated and implemented on a centralized basis. Given this, and given the fact that the majority acknowledges that the nature of the work and skills of the employees sought to be represented are identical to those of employees in similar classifications elsewhere throughout the University, the majority has actually made out a strong argument for affirming the Regional Director's conclusion that the Medical Area clerical, technical, and service employees do not enjoy a separate community of interest. We are thus left to speculate why they reverse him.[10/]

Just four months before in the Duke University case,[11/] Members Jenkins and Walther, Member Murphy dissenting, ruled that a separate maintenance unit restricted to the Medical School and Hospital employees was not appropriate, and directed a vote as to whether or not the Hospital maintenance employees wished to join the existing University maintenance employee unit.

In regard to the scope of the unit involving faculties, the Board has so far limited exclusions to the law school faculties,[12/] dental school faculties, [13/] and medical school faculties,[14/] based on the grounds of a separate status and community of interest apart from other faculty members.

UNIT COMPOSITION

In the earlier Board cases it was argued that faculty members were not "employees," but had a managerial or independent contractor relationship, primarily because of the "collegiality" or "shared authority" concept present at many colleges and universities; usually exercised formally through a faculty senate and/or informally in discussions and meetings with the department chairman and deans. The Board's refusal to consider such an argument is an example of its thinking being shaped by industrial concepts. The NLRB just cannot cope with such an unusual concept and consistently, since the first case,[15] has side-stepped the problem even though it recognized the problem exists. See footnote 31 in Adelphi University[16] which states:

> The delegation by the University to such elected groups of a combination of functions, some of which are, in the typical industrial situation, normally more clearly separated as managerial on the one hand and as representative of employee interests on the other, could raise questions both as to the validity and continued viability of such structures under our Act, particularly if an exclusive bargaining agent is designated. We have not been asked to pass on these lurking issues and, in any event, would not do so in the context of a representation proceeding. Our finding here is limited solely to the effect of membership on these committees on unit placement and voting eligibility.

In the Adelphi decision you can also find Ralph Kennedy's excellent dissent on the problem presented by faculty participating on special committees such as "tenure" or "grievance" which are an integral part of the management decision-making procedure. His dissent was predicated upon his belief that the Personnel and Grievance Committees were supervisory entities and therefore cloaked the individual members with supervisory status. There are significant differences between the collective exercise of quasi-supervisory authority by an entire faculty such as the 600 member faculty in C. W. Post, and the exercise of such authority by a relatively few faculty members elected to small committees as in Adelphi.

First, the authority exercised by the Adelphi committee members is more nearly analogous to the type of authority historically recognized as "supervisory" under the Act. It is highly

concentrated, attached only to individual committee members, and is limited in duration to the length of the individual's term in office. The authority collectively exercised by an entire faculty, on the other hand, is widely diffused, vests automatically upon the attainment of faculty status, and is of unlimited duration. Secondly, to the extent that special committees such as those in Adelphi are charged with responsibility for implementing a university's personnel policies, they are more clearly acting in the interest of the employer than are entire faculties striving to preserve their collective voice in the collegial decision-making process.

The Board has established the fact that it will not eliminate, the problem, but leave the parties to work it out.

1. Department Chairpersons

Another related problem which is still in a state of flux is the issue of department chairpersons. The existence of first-level supervisory employees in the day-to-day functioning of any bargaining unit is essential if collective bargaining and a grievance and arbitration procedure are to work. Regardless of a background of collegiality, once collective bargaining comes on the scene, clear and established lines of supervision are essential. Universities cannot depend upon department chairpersons as a supervisory level in administration, but at the same time bestow only limited authority on the chairperson to direct his/her employees and ignore his/her recommendations.

The Board twisted through the various cases apparently applying a theory that chairpersons exercise their authority not as representatives of management, but as gatherers of collegiality on behalf of the faculty, as their representatives to management.[17/] There was hope that this theory might disappear with the decisions in New York University, 221 NLRB 1148 (1975) and Rensselaer Polytechnic Institute, 218 NLRB 1435 (1975), but it remains yet to be seen. It should be noted that a change in conditions and authority through or after collective bargaining can change the chairperson's status. In the recent Fairleigh Dickinson University case,[18/] the Board granted the union's petition for unit clarification that the department chairpersons who had been excluded in the original case no longer had any supervisory authority under the collective bargaining agreement. Hopefully, since they permit a change in chairperson status to result in a re-placement of chairs into the unit, the Board in an appropriate case will permit the opposite.[19/] The position of the Board has developed to the point that chairpersons who do exercise supervisory authority as provided in the Act, will be so found and excluded.

2. Principal Investigators

The next supervisory problem to arise in faculty units involves the question of faculty who are also engaged in administering programs outside their teaching responsibilities often called "principal investigators." The Board will include them even though they hire and supervise other employees as long as the employees they supervise are not in the unit.[20] On the other hand, if the principal investigator in administering a program retains other faculty members to assist in the program, he or she will be excluded.[21] The Board's theory of inclusion or exclusion does not depend on the outside program's relationship to the normal teaching responsibilities, but upon the status of the employees supervised in the program. If there are faculty members or research associates included in the unit who are supervised by the principal investigators the investigators will be excluded.[22]

On the other hand, faculty members or librarians who are not engaged in outside programs but who supervise secretaries, library employees or other non-unit employees will be included or excluded based on the percentage of time involved. If they devote less than 50 percent of their working time to supervising non-unit employees they are included in the faculty unit.[23]

3. Part-time or Adjunct Faculty

Early Board decisions relied heavily upon the fact that both full-time and part-time faculty members engage in the same principle function -- teaching -- and therefore share a natural community of interest with one another. Those decisions held that regular part-time faculty must be included in the same unit as full-time faculty absent an agreement of the parties to exclude them.[24] This clearly was simply extending the industrial rules to colleges. In subsequent cases the Board began to look beyond the common work function to other determinants of community of interest. Finally, in New York University,[25] the Board reversed precedent and concluded that at the University there was no real community of interest between part-time and full-time faculty because of differences with respect to: (1) compensation, (2) participation in university government, (3) eligibility for tenure, and (4) working conditions. It was thus found that part-time faculty members were paid considerably less than their full-time counterparts, did not contribute to university governance, were not eligible for tenure and were not expected to engaged in various non-teaching pursuits. These differences, it was felt, would make bargaining in a unit which encompassed both groups of employees very difficult.

The importance of the teaching function as an element in the creation of a community of interest continues to be de-emphasized. In a case from Puerto Rico, the Board was asked to determine

whether 14 part-time lecturers who carried a teaching load equal to that of full-time faculty instructors should be included in a unit otherwise composed of full-time teaching personnel. Relying upon NYU, a Board Panel concluded that the part-time lecturers should not be included in the unit. The Panel noted, among other things, that the lecturers enjoyed no voice in university governance, were not eligible for tenure, were hired on a semester rather than yearly basis, and were not required to attend conferences and faculty meetings or engage in student consultation. These differences, it was felt, outweighed any community of interest which might be generated by the lecturers' heavy teaching load.

The NYU rule with respect to exclusion of part-timers, however, has not been applied mechanistically. Kendall College, a small 2-year liberal arts college in Illinois, for example, employs two types of part-time instructors.27/ One type was employed on the basis of a pro-rata full-time contract while the other was employed pursuant to a per-course contract. The per-course part-timers closely resemble adjunct faculty at other institutions. They were paid at a flat rate per semester hour, taught with no incremental increases for additional education; were not eligible for all fringe benefits; did participate in university governance but only to a limited degree; and were not contractually bound to perform non-teaching functions such as student counseling. The Board Panel applied NYU and excluded them.

The part-time instructors employed under the pro-rata contracts, however, were a different story. The evidence indicated that they were compensated at full-time rates but on a pro-rata basis, received most fringe benefits, and were bound by contract to participate in university governance and non-teaching functions. The Panel concluded that since the benefits and working conditions of these part-time faculty members so closely paralleled those enjoyed by their full-time counterparts, they really did not fit the NYU mold. They were, accordingly, included in the full-time unit in spite of their part-time status.

An even more interesting case in my opinion from the standpoint of community or two year colleges is Cottey Junior College.28/ Cottey is a small, 2-year liberal arts college for women located in Missouri. It has an enrollment of approximately 345 students and employs 50 faculty members. In addition, the college utilizes qualified college administrators -- Registrars, Coordinators, and so forth -- as part-time faculty members. Thus, while these individuals are full-time employees of the college, they are only part-time teachers.

The Board, in its university decisions, has excluded administrators from faculty bargaining units on the theory that they are not professional employees as defined in the Act, and since

they do not engage in teaching they lack a community of interest with faculty members.[29] Accordingly, the Board was faced in Cottey with determining the appropriate unit placement of individuals who simultaneously served as administrators and part-time teachers -- neither of which have been traditionally placed in full-time faculty units.

In deciding to include these individuals in the faculty unit, the Board noted that NYU was not really intended to be applied to this type of situation which is common at many smaller educational institutions. While in a technical sense these individuals are "part-time" faculty, in a more realistic sense they are employed as full-time dual function employees. The Board concluded that their faculty status and their teaching functions provided them with a community of interest with the full-time faculty similar to that which most likely existed at NYU. But unlike the part-timers at NYU, their full-time employment at the college, and their participation in college benefits, provided them with additional ties to the institution which warranted their inclusion in the faculty bargaining unit.

The lesson to be learned from these cases is that NYU will not necessarily be applied automatically to exclude part-time faculty members from faculty bargaining units. The greater the role given part-timers in the daily functioning of the institution, the greater their participation in university-provided fringe benefits, the more likely it is that they will be found to share a community of interest with their full-time colleagues sufficient to justify their inclusion in a single bargaining unit.

One question remains with respect to part-time faculty members -- if they cannot be included in a single unit with the full-time faculty, are they entitled to their own separate unit? In the only case in which the Board has addressed this issue, Goddard College,[30] a panel decided that they were not entitled to their own unit. The reason for this was not because the relationship between the part-timers and the university was deemed to be transitory in nature, but rather because the record did not establish a community of interest among the part-timers themselves. Since they were employed by several different departments at several different locations, it was concluded that the part-timers constituted "different heterogeneous groups... whose only common identification (was) their part-time work for the Employer."[31]

As a practical matter, collective bargaining cannot succeed if it is forced to occur with the negotiation of the terms and conditions of employment covering the same jobs or work, in two separate units, one of full-time and one of part-time faculty.

With the exception of wages and benefits, the terms and conditions of both groups in carrying out the teaching functions are basically identical. One cannot think of a unit determination which would be more disastrous to stable collective bargaining.

Attention should be given to the status of another group of individuals commonly found on college campuses -- visiting lecturers, if for no other reason than they have been afforded different treatment by the state and federal Boards.

Typically, visiting lecturers are hired for a definite period of time -- normally a semester or a year -- during which time they are compensated at full-time rates, enjoy faculty privileges and are expected to assume faculty obligations. Their expectancy of reemployment is generally quite low. In analyzing the appropriateness of including such lecturers in a faculty bargaining unit, two approaches are possible. One approach emphasizes the length of time that visiting lecturers will share common interests with the faculty; the second approach emphasizes the degree to which they share common interests. The federal Board has utilized the second.

In the Goddard[32] decision mentioned earlier, an NLRB Panel concluded that since the record indicated that only 5 to 10 percent of the visiting faculty have been offered permanent positions, their work is temporary in nature and therefore they are not entitled to be placed in the same unit with full-time faculty.[33] In the Community College of Philadelphia[34] case, however, the Pennsylvania Labor Relations Board found that the visiting lecturers enjoyed a "definite identifiable community of interest with the full-time teaching faculty" and strongly hinted that they should be included in a single unit. Since that was not possible on the basis of the petition then pending before the state Board, the visiting lecturers were granted their own separate unit.

The most interesting aspect of the NLRB's treatment of visiting lecturers is its apparent inconsistency with the treatment afforded to "terminal contract" employees -- non-tenured faculty members who have been informed that their existing contracts will not be renewed. Terminal contract employees have probably even less of a future expectancy of continued employment than the visiting lecturers, and yet terminal contract employees are included in the faculty units because, "(w)hile they remain on the faculty that have a substantial community of interest with their colleagues...."[35] The distinction between terminal contract employees and visiting lecturers which justifies this different treatment is not clear.

Generally the Board has included librarians in the faculty unit, but has on several occasions granted them separate units. Comment regarding proliferation of units can be found in a dissent to the Teachers College, Columbia University decision[36]

SCOPE OF BARGAINING

Undoubtedly the most important area in which the Board will yet issue decisions is the scope of bargaining in higher education. To what extent must an institution bargain about what in industry are considered managerial decisions and left to administration? Questions about the type and quality of the product or service to be performed, the amount of and scheduling of production or work, we all realize are often amongst the first proposals put forth by a faculty union. Serious problems have already arisen at several institutions regarding the results of collective bargaining on such issues and its effect on the availability of desired courses to the students and the carrying forth of the educational function.

The Board has so far not spoken directly in this area. Hopefully, the Board will follow the lead established in the newspaper industry in the Capital Times decision.37/ In that case the Board ruled that the newspaper employer does not have to bargain about the setting of rules regarding employee conduct and activity which go to the quality and ethics of its product. There is a very serious question whether or not collective bargaining is a viable method of determining the quality of education to be provided by institutions of higher education. Whether decisions as to class size, scheduling as far as the availability of courses to students, the parameters or syllabus of the course and overall curriculum can be effectively established through collective bargaining is very doubtful. One must hope and strive to see that the results of collective bargaining in higher education are meaningful and effective in raising the standards of the employees and solving problems in the employee-employer relationships but must not permit it to become an impediment to the ability of an institution to fulfill its educational functions and to carry forth its responsibilities to society.

FOOTNOTES

1/ See Section 8(a)(1), 8(a)(5), and 8(b)(3).

2/ Section 8(d).

3/ In Fairleigh Dickinson University, 22-UC-44 (1976), (unpublished) for example, the union sought unsuccessfully to clarify a faculty unit by including department chairmen earlier excluded as supervisors on the theory that the advent of collective-bargaining stripped the chairmen of any supervisory authority they may once have enjoyed.

4/ Cornell University, 183 NLRB 329 (1970).

5/ See, Kennedy "The Educators' Role in Educating the NLRB: Requirement of a Complete Record," Journal of College and University Law 305, 323 (1974).

6/ 136 NLRB 134, 137 (1962).

7/ 205 NLRB 101 (1973).

8/ 202 NLRB 41 (1973).

9/ The President and Fellows of Harvard College, 95 LRRM 1390 (1977).

10/ Supra, p 1397.

11/ 227 NLRB 232 (1977).

12/ Fordham University, 193 NLRB 23 (1971).

13/ Fairleigh Dickinson University, 205 NLRB 101 (1973).

14/ University of Vermont, 223 NLRB 46 (1976).

15/ C.W. Post, 189 NLRB 110 (1971), and New York University, 91 LRRM 1165 (1975).

16/ 79 LRRM 1545 at 1556.

17/ Fordham University, 214 NLRB 137 (1974).

18/ 227 NLRB 40 (1976).

19/ But see Arthur C. Logan Memorial Hospital, 231 NLRB 119 (1977) in which the employers unit clarification petition was denied regardless of the authority of the employees concerned, Walther dissenting.

20/ New York University, 91 LRRM 1165 (1975).

21/ Rensselaer Polytechnie Institute. supra.

22/ University of Vermont, 223 NLRB 46 (1976).

23/ Mount Vernon College, 228 NLRB 153 (1977).

24/ E.g., University of New Haven, Inc., 190 NLRB 102 (1971).

25/ 205 NLRB 16 (1973).

26/ Fundacion Educativa Ana G. Mendez, Inc., 24-RC-5690 (unpublished).

27/ Kendall College, 13-RC-13911 (unpublished).

28/ 17-RC-7979 (unpublished).

29/ E.G. Tusculum College, 81 LRRM 1345, 1349 (1972); Point Park College, 85 LRRM 1542, 1545 (1974).

30/ 88 LRRM 1228 (1975).

31/ Ibid at 1230.

32/ Goddard College, supra note 30.

33/ In the Trustees of the Stevens Institute of Technology, 222 NLRB 18 (1976), a Board panel sustained a challenge to ballot cast by a visiting lecturer in a election conducted among the full-time fauclty on the basis that the lecturer was "merely a temporary employee with no reasonable expectancy of continued employment and, therefore, should be excluded from the unit."

34/ New York University, supra.

35/ Manhattan College, 79 LRRM 1253, 1254 (1972). Tusculum College, supra note 29 at 1350, and New York University, supra note 20 at 1177.

36/ 226 NLRB 193 (1976).

37/ 223 NLRB 87 (1976).